The rights and dignity of citizens in the Islamic judicial system

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Abstract

Between the concept of citizenship and teachings of Islam as well as other traditions are established an unbreakable relationship. Sometimes conflicts can be seen among traditions with civil rights and these conflicts can be solved and they are reconcilable. Rights of citizenship are not apart from natural and innate rights and the spirit of the divine tradition that has found expression in custom. Considering the human dignity, the rights will be raised. As people become more and more social and civil, his dignity increases, and it is the same rights that is called "dignity". The basic principles of human rights such as human dignity, are equality and human freedom that these are concerns of the Islamic legal system. In this regard, Islamic law is based on great range of human achievements that has seldom been addressed. Importance of Judgment and judicial independence are two vital categories at the beginning of the formation of Islamic law. At the time of the Prophet and the Caliphs, independence of the judiciary enjoys a special place, and no one even the caliphs did not have the right to intervene in judgment. In this thesis After defining judgment in Islam, we will mention the importance of judgment according to the verses and sayings., and then relying on documented narratives we will present examples of judicial independence in the era of Prophet Muhammad and the caliphs.

Keywords: human dignity, Islamic judicial system, judicial independence, the importance of judgment and social justice. Introduction Basically, when "humanity" of man is studied, a massive debate creates in its wake.
Introduction

Basically, when "humanity" of man is studied, it creates a range of topics. Anthropologists have never been able to discover the truth of man, because nature and human creation is in such a way that human wisdom and science has no way to inner facts of it. In other words, wisdom, is a part of the human and not the entire recognition of the all. Human creatures, is the best of creations and these position is very high and venerable. About the dignity of human we had talked and in different religions, schools, human has high position. Among these, Islam as the most comprehensive religion, and last divine has very special emphasis on dignity and human dignity and remember him as the goal of creation and consider that the dignity and respect of humans is necessary. Today, the issues of civil rights, the dignity and basic human dignity has considered as the basis of human rights and mentioned in numerous international documents insist on that, but despite this emphasis this issue has not been properly explained. Witnesses to this claim, is defamation to human dignity throughout history because of various factors. Perhaps, ignoring the dignity of human beings rooted in that some people who disagree with them, and do not think and act like them or that they committed crimes and evil actions, known outside of humanity and of human dignity, thus any behavior they consider it justified.

Citizens in the judicial system

The basic element Islam, and the rights of its citizens effect in all fields of their work, is the idea of monotheism. According to Islam, God is not only is creator, but also alone without any partner plan the world, as well as imposes the rules governing the citizens and societies and the citizen is obliged to obey his laws and to be good citizen for God ,and by acting the civil rights that has been imposed through holy legislator, guarantee his other world. Legal system of Islam is no exception and therefore the civil law, all of counterfeiting and divine authority, chives credibility and legitimacy. Of course it has been proven that counterfeiting legislation in place by wise, knowledgeable is not vain, and his commandments are based on facts and realities of the world in order to reach the ideal and the real man he is.

First Speech: comparing Islam with other schools

Explanation of citizenship in Islam: Islam sight is not like a school of natural law, the criteria and rules of civil rights laws that only know objective facts, and is not like school of law that only consider reason tags as the criterion of the law.

The legitimacy of citizenship laws

The regard of Islam toward the legitimacy of legal rules is different from of other law schools. Because on the one hand, from the perspective of the natural and intellectual schools the legitimacy basis is the conformity of legal rule with nature and reason. Each rule of the citizens rights which has this description is legitimate, although the government and people reject it, and any other rule is not illegitimate, although the Government and people accept it and on the other hand, the positivist legal schools view unlike the natural schools of law - the basis for legitimacy is something accidental. Any rule that the government or the people requires, is legal and legitimate although it has been opposite of the laws of nature and reason and contrary to any law.
that the government or the people, do not consider required, the rule will be non-legal and legitimate although it is based on logical dates. So far the rules of civil rights underwent dramatic changes.

**Major legal systems of citizenship:**

1) Citizenship rights of Secular and humanity

2) Citizenship rights of religious and divine

Since the beginning until now human societies has never been managed by a single legal system and although governance of the single legal system has been desirable in all human societies but no time this vision has a reality. These system have similarities and differences and based on this criterion are classified. And because of the similarities and differences has different dimensions can be studied at different aspects. As a result, multiple categories are classified by the legal systems that are not necessarily in conflict with each other, but each one of them represents part of reality.

**Citizenship rights of Secular and humanity**

Legal systems are made by human thought, and each one has with its own characteristics. The existence of these features alongside the various legal systems rises different legal systems. Criteria for differentiating different types of rights is regarding the content of the legal rules of rights. At the same time rights may have been involved in a legal system has some significant differences that is due to the customs and cultural and geographical characteristics.

- **rights of Roman citizens - Germany**

Roman -Germany family law history is very long and its history reaches ancient Roman law. But the change that has occurred over thousands of years, not only in terms of appearance and formal rules, but also in terms of the concept of rights is distanced it from the rights of ancient Rome. Germany - Roman law is continuing Rome rights but is not copy of it, especially since many of its elements originated from sources except Roman law. The emergence of Roman-Germany law scientifically was thirteenth century, and was followed by resurgence, that emerged in all aspects and the most important aspect was legal aspects. Community by revitalization, cities and business development speculate that the only the rights can provide order and security and thus the possibility of progress. The idea of a Christian society based on charity was set aside regardless of the existence of God on earth. And religion and ethics are differentiated from civil system and the rights. For civil rights was considered a special task and a kind of independence to religion and ethics.

- **System of common law and civil rights in the UK and America**

Common Law is a legal system in England that was built after the Norman conquest of the country. Common law legal family, In addition, British law which has its origin consists of all the rights of English-speaking countries with some exceptions. Outside the English-speaking
countries penetration of common law, perhaps and often in all countries that have been associated with England was considerable. England is the cradle of the legal system. The main difference between legal systems with the Roman-German legal system is based on the resources that they formed and evolved. While in the Roman-German family, the main source is law. The main source in England and America rights, there are rules that states judgment in courts. Law duty is only modifying or completing the rules that are due to the votes of the judges. So to study law in countries like Britain and America instead of going to court sets procedural law should be checked. This means that when a court voted about citizenship rights, this would be a procedure and is applicable to all citizens. But one hundred years ago according to the growth and development of communities that is following legal system a legislative movement in these countries, especially in England emerged, during which many laws has stated and profoundly changed common law and has created a new section in this legal law. So, today the law nothing more than a correction of the common law. There are large parts of social life in which even the principles of the legal system must be searched in legislative work.

• Socialist legal system

United Republics of the former Soviet Union and some countries of Eastern Europe and Cuba and China are members of this law family. And the basis of their philosophical ideas of was Karl Marx and Engels that is adapted to external conditions by Lenin and has been known Marxism-Leninism. The purpose of the system is social justice and steer society toward the communist regime, and their purpose is not preservation of individual rights and freedoms. The separation of the executive and the legislative and judicial, that is the principle of capitalism right are not respected And devoted the government and municipal party to itself. In this system, the law does not guarantee protection of individual freedoms but there are rules that supply public peace the characteristic of this family is nationalization of production.

• Religious and divine citizenship legal system

Jewish legal system (Talmud rights)

Although Jewish religion from the beginning and in the written text of the Torah was consisted of the law and social rules, but what is today as Jewish rights, is called the Talmud as a legal system that has been developed based on the perceptions of Jewish scholars of the Torah. In addition to what is stated in the text of the Torah, there were laws that were added through its interpretation. In Talmud these words attributed to God that the Israelites against one of the judges called Alyjah repeated twice that my children beat me (ie, the argument prevailed on me.) The God is pleased of wisdom and power of reasoning of that judge.

2) the rights of Christian citizens and churches

Jesus did not introduce a new legal system but in a large extent signed and confirmed the law of Moses. He did not change Jewish religious and social precepts; and only prohibited a part of the provisions that Jews was abolished because of punishment. It should be noted that Church rights at some point in time was applicable only within the church, the church was outside the scope of the domestic laws of their governments and because governments had not any responsibility to
enforce the laws of the church so often conflicts arose between the rights of church and government regulation and law, but because of participation of some priests in the revolutionary movements and the national campaign that wanted to govern laws, gradually, cause to further influence religious values in the legal system. The Crusader wars, which gave great power to the Pop, was an important factor that influence the penetration of church rights in Roman law.

Augustine innovation was as a revolution that that allowed human intellect to interpret the divine commandments. St. Augustine justify that God in addition to his will in management of world affairs that is expressed in religious books, uses wisdom that govern the universe and human being by using of his heart and wisdom interpret God's commandments.

**system of citizenship rights in Islam**

The last religious legal system that overshadowed other legal systems of world ,and different nations welcomed it was the Islamic legal system, this legal system is derived from the saint book and reason, and in less than a century, was ruling on the world. It was all because of the advantages of this system compared to other systems. In this section, after a brief reference to these contents, we will refer to Islamic legal system and then we will discuss about Islamic law and finally we end the story to goals and principles of Islamic law.

The Islamic epistemological system is based on the principle that we mention to a few important principles:

1) Hidden realms and witnesses, in the Islamic thought, the universe is divided into two parts: The purpose of the intuition world is the world of that is understandable by the human senses. The unseen world that can not be understood by human senses. Accordingly belief in unseen world is characters of virtuous.

2) Being creation of God: In religious thoughts ,the existence of material and immaterial beings such as humans and all creatures is God . God is the creator: Allah is the Creator of everything and He is guardian over all of everything.

3)Being purposeful: In Islamic epistemological system, the universe, including human beings are created for a specific purpose, and all without exception, are moving toward that goal.

4) Managing and monitoring of universe: In Islamic thought God is not the only creator that abandon their creations, but he is creator and Lord of the universe, that tact and monitor human beings and on the basis of their performance or behavior will question them.

5) Multi-stages of human life: In Islamic thoughts human living has multi-stage, here we consider two steps that are interconnected and related to each other.

A) The secular life: This stage of the human life begins with birth and ends with his death. In this world human is relatively free ,quantity and quality of his behavior affect his destiny.
B) Afterlife: Futurity life begins with death and is everlasting. The difference is that human happiness in this world, depends on the effort he has made in the world. But happiness in the Hereafter are caused by his efforts in this world, in other words hereafter reflect the performance of humans in the world.

6) acceptance of intellect as source of knowledge: Although the term «wisdom" has multiple meanings in religious texts, but in all texts wisdom is a source of knowledge. Accordingly, in many verses unbelievers have blamed because of lack of intellect. However the lack of reason in all cases had been emphasized. This inefficiency of reason has highlighted.

7) accepting the senses as a source of knowledge: Human begins at birth and through his life communicates with the outside world and know it. But everyone knows that the human senses to understand all phenomena of the world, does not work, even for understanding the material world is also faced with many constraints. So that the slightest human error in use of the senses of human lead to in cognition of phenomena in the world.

8) the need for human guidance by revelation: With regard to the purpose of man's creation, insufficiency of intellect and sense in guiding human beings inevitably God leads humans by another obstacles, and it is revelation. To do this, members of the human kind are elected and through this people are guided.

In Islam, the last book is Quran and the last messenger is Muhammad (pbuh) is: without hesitation we revealed to you as Noah Prophet.

9) counterfeiting laws or dos and don'ts: To achieve any goal and need a set of do's and don'ts, this means you need to do something to close you to goal and on the other hand doing something, distant man from goal.

10) purpose of human creation: In Islamic texts, for creation of human beings is considered intermediate and final goals, that the ultimate goal is divine revelation of God that is not possible unless with knowledge of God. Now considering the points above we can now answer three questions. The first question must be said that the nature of legal rules is spurious not inherent, of course is not absolute spurious. In answer to the second question that who is the legislator is to say, According to the points, part of the world is unseen world and a part of human life will be passed in unseen world and the role of human behavior in his destiny and for legislation to these complex creature requires extensive information about the man and the world. Human being is unable to do so, God is the only legislator.

Conclusion: One of the preventing factors of crime is religious beliefs apart from internal factors such as inheritance, environmental factors or exogenous have been studied in Islam in the prevention of crime, such as the role of social environment, family and proper upbringing and ... Islam preventive measures to fight crime can be examined in two ways. One of the approaches that is proposed by scientists in criminology, prevention has been outlined and discussed. Whether such a strategy exists in Islam and how is it? For example, the strategy to respect people or what does exist in scientific and practical approaches of Islam and if there is, what is quality? Another way is to examine whether is there preventive strategies in Islam and how they can be
used to fight crime? One of the preventive strategies of Islam in fighting with crime that scientific prevention is disabling to define is the introduction of causing factor as "the devil" the internal and external dimensions considered in Islam that holy God has dealt with it. From the perspective of devil or in other words sensuality is involved in doing crime that whims and desires that will tend person to sin and crime and the external perspective of devil, Satan is a foreign creature by taking advantage of different ways trick people to commit violent acts and the tendency of people to commit crime or obligation of enjoining the good and forbidding the evil, which is the most advanced instruments applicable in the field of crime prevention, and criminology system. As we know the main objective of criminology, even with the Western definition is two things. First, prevention then treatment, the important points in this regard, is recommended to perform good deeds in Islam, Those who are doing good practice, in addition to benefit from its advantages, for example, a person who works or trade, the conclusion is reaching to income and wealth and also God gives a reward to him and these are incentive policies to encourage people towards doing good deeds. While in criminology or criminal policy, there is not such a thing, that is not the case that all the good deeds of the righteous will be rewarded, perhaps that such action is out of the power of and governmental and non-governmental organizations and only has been dedicated to divine powers and only such a thing can be entered in Criminology when we can to enter to a new phase of studying the phenomenon of crime, there is not a Western Criminology system that relies on materialistic achievements of human.
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